



(916)445-4583

November 25, 1981

This is in regard to your letter of November 3, 1981, concerning the "modernization" program embarked upon by the Hotel.

The work will involve:

1. New electrical wiring and fixtures
2. New plumbing and fixtures
3. New windows and window frames
4. Rehab existing elevator
5. Patching holes in walls made to accomodate new pipes and wiring
6. New wallpaper and rugs

While you recognize the fact of whether the work meets the criteria of new construction under Section 70 of the Revenue and Taxation Code or Board Rule 463 is a judgmental decision, you still would like our opinion.

We all agree that normal maintenance and repair does not constitute new construction. From our conversation, it appears that each one of the listed items were performed because they were needed to maintain the hotel as such. Clearly, if they would have merely done one job say every two years, everyone would agree that it is not new construction; i.e., it is only normal maintenance and repair. However, since they were all done at one time, the question is whether the project is sufficient to be considered as converting the property "substantially equivalent to new." Since we understand

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from our telephone conversation that the income stream before and after construction has not dramatically changed and the useful life of the unit has not significantly changed, it does not appear that one could conclude that there has been "new construction" under Section 70 or Rule 463.

Very truly yours,

GLR:jlh
